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105TH CONGRESS
1ST SESSION**S. 224**

To amend title 10, United States Code, to permit covered beneficiaries under the military health care system who are also entitled to medicare to enroll in the Federal Employees Health Benefits program; and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 28, 1997

Mr. WARNER introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To amend title 10, United States Code, to permit covered beneficiaries under the military health care system who are also entitled to medicare to enroll in the Federal Employees Health Benefits program; and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. INCLUSION OF MEDICARE ELIGIBLE COVERED**
2 **BENEFICIARIES IN FEDERAL EMPLOYEES**
3 **HEALTH BENEFITS PROGRAM.**

4 (a) FEHBP OPTION.—(1) Chapter 55 of title 10,
5 United States Code, is amended by inserting after section
6 1079a the following new section:

7 **“§ 1079b. Health care coverage through Federal Em-**
8 **ployees Health Benefits program**

9 “(a) FEHBP OPTION.—(1) The Secretary of De-
10 fense (after consulting with the other administering Sec-
11 retaries) and the Director of the Office of Personnel Man-
12 agement shall enter into an agreement to offer eligible cov-
13 ered beneficiaries an opportunity to enroll in a health ben-
14 efits plan offered through the Federal Employee Health
15 Benefits program under chapter 89 of title 5. The agree-
16 ment may provide for limitations on enrollment of covered
17 beneficiaries in the Federal Employee Health Benefits
18 program if the Director determines that the limitations
19 are necessary to allow for adequate planning for access
20 for services under Federal Employee Health Benefits pro-
21 gram.

22 “(2) A person covered by an enrollment in a health
23 benefits plan under paragraph (1) is not eligible to receive
24 care under this chapter in facilities of the uniformed serv-
25 ices or through the Civilian Health and Medical Program
26 of the Uniformed Services or the TRICARE program.

1 “(b) ELIGIBLE COVERED BENEFICIARIES.—A cov-
2 ered beneficiary referred to in subsection (a) is a member
3 or former member of the uniformed services described in
4 section 1074(b) of this title, or any dependent of the mem-
5 ber described in section 1076(b) of this title, who is or
6 becomes entitled to hospital insurance benefits under part
7 A of title XVIII of the Social Security Act (42 U.S.C.
8 1395c et seq.). The covered beneficiary shall not be re-
9 quired to satisfy any eligibility criteria specified in chapter
10 89 of title 5 as a condition for enrollment in a health bene-
11 fits plan offered through the Federal Employee Health
12 Benefits program pursuant to subsection (a).

13 “(c) CONTRIBUTIONS.—(1) In the case of covered
14 beneficiaries described in subsection (b) who enroll in a
15 health benefits plan offered through the Federal Employee
16 Health Benefits program pursuant to subsection (a), the
17 administering Secretary concerned shall be responsible for
18 Government contributions that the Office of Personnel
19 Management determines are necessary to cover all costs
20 in excess of beneficiary contributions under paragraph (2).

21 “(2) The contribution required from an enrolled cov-
22 ered beneficiary shall be equal to the amount that would
23 be withheld from the pay of a similarly situated Federal
24 employee who enrolls in a health benefits plan under chap-
25 ter 89 of title 5.

1 “(d) MANAGEMENT OF PARTICIPATION.—The au-
2 thority responsible for approving retired or retainer pay
3 or equivalent pay in the case of a member or former mem-
4 ber shall manage the participation of the member or
5 former member, and dependents of the member or former
6 member, who enroll in a health benefits plan offered
7 through the Federal Employee Health Benefits program
8 pursuant to subsection (a). The Office of Personnel Man-
9 agement shall maintain separate risk pools for enrolled
10 covered beneficiaries until such time as the Director of the
11 Office of Personnel Management determines that complete
12 inclusion of enrolled covered beneficiaries under chapter
13 89 of title 5 would not adversely affect Federal employees
14 and annuitants enrolled in health benefits plans under
15 such chapter.

16 “(e) EFFECT OF CANCELLATION.—The cancellation
17 by a covered beneficiary of coverage under the Federal
18 Employee Health Benefits program shall be irrevocable for
19 purposes of this section.

20 “(f) REPORTING REQUIREMENTS.—Not later than
21 November 1 of each year, the Secretary of Defense and
22 the Director of the Office of Personnel Management shall
23 jointly submit a report to Congress describing the provi-
24 sion of health care services to covered beneficiaries under

1 this section during the preceding fiscal year. The report
2 shall address or contain the following:

3 “(1) The number of covered beneficiaries en-
4 rolled in health benefits plans offered through the
5 Federal Employee Health Benefits program pursu-
6 ant to subsection (a), both in terms of total number
7 and as a percentage of all covered beneficiaries re-
8 ceiving health care through the health care system
9 of the uniformed services.

10 “(2) The out-of-pocket cost to enrollees under
11 such health benefits plans.

12 “(3) The cost to the Government (including the
13 Department of Defense, the Department of Trans-
14 portation, and the Department of Health and
15 Human Services) of providing care under such
16 health benefits plans.

17 “(4) A comparison of the costs determined
18 under paragraphs (2) and (3) and the costs that
19 would have otherwise been incurred by the Govern-
20 ment and enrollees under alternative health care op-
21 tions available to the administering Secretaries.

22 “(5) The effect of this section on the cost, ac-
23 cess, and utilization rates of other health care op-
24 tions under the health care system of the uniformed
25 services.”.

1 (2) The table of sections at the beginning of such
 2 chapter is amended by inserting after the item relating
 3 to section 1079a the following new item:

“1079b. Health care coverage through Federal Employees Health Benefits pro-
 gram.”.

4 (b) CONFORMING AMENDMENTS.—(1) Section 1072
 5 of title 10, United States Code, is amended by adding at
 6 the end the following:

7 “(7) The term ‘TRICARE program’ means the
 8 managed health care program that is established by
 9 the Secretary of Defense under the authority of this
 10 chapter, principally section 1097 of this title, and in-
 11 cludes the competitive selection of contractors to fi-
 12 nancially underwrite the delivery of health care serv-
 13 ices under the Civilian Health and Medical Program
 14 of the Uniformed Services.”.

15 (2) Section 8905 of title 5, United States Code, is
 16 amended—

17 (A) by redesignating subsections (d), (e), and
 18 (f) as subsections (e), (f), and (g), respectively; and

19 (B) by inserting after subsection (c) the follow-
 20 ing new subsection (d):

21 “(d) An individual whom the Secretary of Defense de-
 22 termines is an eligible covered beneficiary under sub-
 23 section (b) of section 1079b of title 10 may enroll in a
 24 health benefits plan under this chapter in accordance with

1 the agreement entered into under subsection (a) of such
2 section between the Secretary and the Office and with ap-
3 plicable regulations under this chapter.”.

4 (3) Section 8906 of title 5, United States Code, is
5 amended—

6 (A) in subsection (b)—

7 (i) in paragraph (1), by striking “para-
8 graphs (2) and (3)” and inserting in lieu there-
9 of “paragraphs (2), (3), and (4)”; and

10 (ii) by adding at the end the following new
11 paragraph:

12 “(4) In the case of individuals who enroll in a health
13 plan under section 8905(d) of this title, the Government
14 contribution shall be determined under section 1079b(c)
15 of title 10.”; and

16 (B) in subsection (g)—

17 (i) in paragraph (1), by striking “para-
18 graph (2)” and inserting in lieu thereof “para-
19 graphs (2) and (3)”; and

20 (ii) by adding at the end the following new
21 paragraph:

22 “(3) The Government contribution described in sub-
23 section (b)(4) for beneficiaries who enroll under section
24 8905(d) of this title shall be paid as provided in section
25 1079b(c) of title 10.”.



1 (c) IMPLEMENTATION.—The Secretary of Defense
2 shall offer the health benefits option under section
3 1079b(a) of title 10, United States Code (as added by sub-
4 section (a)), beginning not later than January 1, 1998.

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